



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,653	07/12/2002	Andre Burguete	A35040 PCT USA	3537

21003 7590 07/31/2003

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

HSIEH, SHIH YUNG

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,653

Applicant(s)

BURGUETE ET AL.

Examiner

Shih-yung Hsieh

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Art Unit: 2837

1. The drawings are objected to because the added numeral 33 in proposed Fig. 3 and the proposed Fig. 4 are not explained and described in the specification, and numeral 2 is not in the drawing. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the laths run parallel to the centerline in claim 5, the thickness of the face diminishes, at least in the region of the rib-free area, toward the rim in claim 8, the transverse ribs comprise a tunnel-shaped recess together with said laths at the point of intersection in claim 10, eight strings in claim 13, and fifteen strings in claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The disclosure is objected to because of the following informalities: numeral 2 on line 7 of page 9 should be 22. Further, the description of the first part 22 and second part 23 in the rib free area 21 on page 9 is indefinite and vague because it is not clear whether the face 12 are constructed with two separate parts 22 and 23 or the parts are

Art Unit: 2837

just an area being divided by imaginary dotted lines in the one piece face as shown in Fig. 2.

Appropriate correction is required.

4. Claim 9 is objected to because of the following informalities: the transverse ribs rest on abutments is indefinite because it is not clear what they abut to. Appropriate correction is required.

5. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The word "characterized" in each is indefinite because it renders the scope of the claims following such word unascertainable.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 6, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martius (Applicant's IDS) in view of Reams, Jr. et al. (1,361,182) and Kaman (3,656,395)

Regarding claim 1, Matius discloses the claimed invention except that the face including the tailpiece is vaulted outward, and an area of the face is divided into a first part more or less between the tailpiece and the area of the rim, and a second part of about the same size bordering on the first part between the mutually opposed rim portions.

Reams, Jr. et al. teach a face (2) including a bridge vaulted outward (Figs. I and II) for mellow tones of great volume (page 1, lines 89-90). Kaman teaches an area of the face (18) being divided into a first part (below line 66 in Fig. 4) more or less between a bridge (44) and the area of the rim (Fig. 4), and a second part (between lines 62 and 66) bordering on the first part between the mutually opposed rim portions for laths (4A-4E) to be distributed among treble side and base side of the face (col. 5, lines 30-33). It would have been obvious to one having ordinary skill in the art to modify Matius' lute as taught by Reams, Jr. et al. and Kaman to include the face including the tailpiece is vaulted outward, and an area of the face is divided into a first part more or less between the tailpiece and the area of the rim, and a second part of about the same size bordering on the first part between the mutually opposed rim portions for the purpose of providing mellow tones of great volume.

Regarding claims 2-4, Matius discloses the claimed invention.

Regarding claim 6, Matius discloses the claimed invention of even number of laths (see Figure).

Regarding claim 9, Matius discloses the claimed invention (See Figure).

Art Unit: 2837

8. Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matius in view of Reams, Jr. et al.

Regarding claim 8, Matius discloses the claimed invention except that the thickness of the face diminishes, at least in the region of the rib-free area, toward the rim.

Reams, Jr. et al. teach the thickness of the face diminishes, at least in the region of the rib-free area, toward the rim (Figs. 2 and 3, and page 1, lines 70-75) for mellow tones of great volume. It would have been obvious to one having ordinary skill in the art to modify Matius' lute as taught by Reams, Jr. et al. to include the thickness of the face diminishes, at least in the region of the rib-free area, toward the rim for the purpose of providing mellow tones of great volume.

Regarding claim 11, Matius discloses the claimed invention except that the fingerboard is prolonged by a face segment on the face and in that the arrangement of the face of the frets is continued on the face segment.

Reams, Jr. et al. teach the fingerboard is prolonged by a face segment on the face for the frets to be continued on the face segment (Fig. 1). It would have been obvious to one having ordinary skill in the art to modify Matius' lute as taught by Reams, Jr. et al. to include the fingerboard being prolonged by a face segment on the face and in that the arrangement of the face for the purpose of allowing the frets to be continued on the face segment.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matius in view of Reams, Jr. et al. and Kaman as applied to claim 1 or 2 above, and further in view of Kasha (4,079,654).

Regarding claim 5, Matius in view of Reams, Jr. et al. and Kaman disclose the claimed invention except that the laths run parallel to the centerline.

Kasha teaches laths (56) laths run parallel to the centerline (Fig. 2) for defining zones vibrating at selected frequencies (col. 5, lines 65-68). It would have been obvious to one having ordinary skill in the art to modify Matius in view of Reams, Jr. et al. and Kaman's lute as taught by Kasha to include laths run parallel to the centerline for the purpose of defining zones vibrating at selected frequencies.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matius. Matius discloses the claimed invention except an odd number of laths. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include an odd number of laths, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering an optimum or workable range of laths involves only routine skill in the art. In re Aller, 105 USPQ 233.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matius in view of Reams, Jr. et al. and Kaman as applied to claims 1 and 10 above, and further in view of Teel (5,952,592).

Matius in view of Reams, Jr. et al. and Kaman disclose the claimed invention except that the face is reinforced on its underside with a piece of hardwood in the region of the face segment.

Teel teaches a soundboard (18) being reinforced (col. 4, lines 33-34) on its underside with a piece of hardwood (50). It would have been obvious to one having ordinary skill in the art to modify Matius in view of Reams, Jr. et al. and Kaman's lute as taught by Teel to include a piece of hardwood in the region of the face segment for the purpose of reinforcing the face.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matius in view of Reams, Jr. et al. and Kaman as applied to claim 1 above, and further in view of Lepage (4,291,606).

Matius in view of Reams, Jr. et al. and Kaman disclose the claimed invention except that eight strings are strung.

Lepage teaches a musical instrument with eight strings. It would have been obvious to one having ordinary skill in the art to modify Matius in view of Reams, Jr. et al. and Kaman's lute as taught by Lepage to include eight strings for the purpose of providing various tonal range.

13. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matius in view of Reams, Jr. et al. and Kaman as applied to claim 1 above, and further in view of Talbott (375,224).

Art Unit: 2837

Matius in view of Reams, Jr. et al. and Kaman disclose the claimed invention except that fifteen single strings are strung.

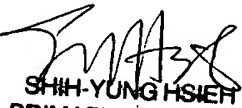
Talbot teaches a musical instrument with fifteen single strings (Fig. 1). It would have been obvious to one having ordinary skill in the art to modify Matius in view of Reams, Jr. et al. and Kaman's lute as taught by Talbott to include fifteen strings for the purpose of providing various tonal range.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shih-yung Hsieh whose telephone number is 703-308-1031. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 703-308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

syh
June 30, 2003


SHIH-YUNG HSIEH
PRIMARY EXAMINER